

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	8:05CR335
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
TAUVAA A. WILLIAMS,)	
)	
Defendant.)	

This matter is before the court on the Magistrate Judge's Report and Recommendation (filing 21) and the objections to the Report and Recommendation (filing 22), filed as allowed by 28 U.S.C. § 636(b)(1)(A) and NECrimR 57.3.

After de novo review, I agree with Judge Piester that the affidavit challenged by the defendant sufficiently established probable cause for the issuance of a search warrant regarding an express mail package.¹ Like Judge Piester, I so find and conclude despite the fact that the issuing judge² was told that different drug dogs failed to "hit on" two earlier packages that had been mailed to the defendant. Moreover, even if there were a problem with the affidavit (and there is none), the

¹The search warrant, the application and affidavit and a transmittal letter from an Assistant Federal Public Defender were provided to Judge Piester as the sole record. These documents were not, however, formally received in evidence because the government apparently did not want the affidavit to be made public. (See the transmittal letter.) I have obtained those documents from Judge Piester and I have very carefully reviewed them. They will be filed under seal at the time this memorandum and order is filed.

²United States Magistrate Judge Thomas Thalken.

Leon³ “good faith” exception would save the fruits of the search from suppression since the conduct of the officers and the detached and neutral issuing judge were objectively reasonable.

Accordingly,

IT IS ORDERED that the defendant’s motion to suppress (filing 14) is denied, Magistrate Piester’s report and recommendation (filing 21) is adopted, and the defendant’s objection (filing 22) to the report and recommendation is denied. The Clerk of the Court shall file under seal the search warrant, the application and affidavit and the transmittal letter which I now deposit with the Clerk.

October 17, 2005.

BY THE COURT:

s/Richard G. Kopf
United States District Judge

³United States v. Leon, 468 U.S. 897 (1984) (the Fourth Amendment exclusionary rule should not be applied so as to bar the use in the prosecution's case in chief of evidence obtained by officers acting in reasonable reliance on a search warrant issued by a detached and neutral magistrate but ultimately found to be invalid).